

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**HENRY KUEHN and
JUNE P. KUEHN**

PLAINTIFFS

VS.

CAUSE NUMBER:1:08CV577-LTS-RHW

**STATE FARM FIRE AND CASUALTY
COMPANY and JOHN DOES 1 THROUGH 10**

DEFENDANTS

**DEFENDANT, STATE FARM FIRE AND CASUALTY COMPANY'S, REPLY
IN SUPPORT OF MOTION TO COMPEL INSPECTION OF
PLAINTIFFS' PROPERTY [96]**

COMES NOW, the Defendant, State Farm Fire and Casualty Company (State Farm), and files this its Reply in Support of its Motion to Compel Inspection of Plaintiffs' Property for Expedited Relief [96] and would show unto the Court as follows:

In their response, the Plaintiffs attempt to distinguish between the Court's prior Orders regarding Katrina cases that involved a wind/water causation issue and this case, which involves an appraisal issue. Such distinction is unnecessary as State Farm has the right to conduct the discovery it deems necessary to defend the lawsuit filed against it. In fact, this Court's order in *Abney vs. State Farm*, emphasized exactly that, stating, "[t]he fact that defendant may have inspected the property prior to commencement of this litigation does not preclude defendant's right to conduct discovery to prepare its defense to the lawsuit." *See* Exhibit B to Motion to Compel Inspection of Plaintiffs' Property [96].

It is not for the Plaintiffs to decide how State Farm chooses to defend this case. Additionally, performing this inspection and conducting this discovery is of no cost or expense to the Plaintiffs.

Finally, to the extent that the Plaintiffs believe that the results of the inspection and conclusions and observations of State Farm's retained consultants are irrelevant, they are entitled to object to them at such time as they are attempted to be admitted into evidence at trial. To preclude State Farm from conducting this inspection during the current discovery period as set forth in the Court's Scheduling Order is premature and prejudicial to State Farm in its defense of this lawsuit.

WHEREFORE, PREMISES CONSIDERED, Defendant, State Farm, respectfully requests that the Court compel Plaintiffs to go forward with the inspection of the property by State Farm's experts.

DATED: December 10, 2009.

Respectfully submitted,

BRYAN, NELSON, SCHROEDER,
CASTIGLIOLA & BANAHAH, PLLC
Attorneys for Defendant
STATE FARM FIRE AND CASUALTY COMPANY

BY: /s/ John A. Banahan
JOHN A. BANAHAH (MS Bar No. 1731)

CERTIFICATE OF SERVICE

I, **JOHN A. BANAHAH**, one of the attorneys for the Defendant, **STATE FARM FIRE AND CASUALTY COMPANY**, do hereby certify that I have this date electronically filed the foregoing DEFENDANT, STATE FARM FIRE AND CASUALTY COMPANY'S, REPLY IN SUPPORT OF MOTION TO COMPEL INSPECTION OF PLAINTIFFS' PROPERTY [96] with the Clerk of Court using the ECF system which sent notification of such filing to all counsel of record.

DATED, this the 10th day of December, 2009.

/s/ John A. Banahan

JOHN A. BANAHAH

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